

MISC.CIVIL APPLICATION NO. 28 OF 1993.

Date of decision: 11.12.1995.

For approval and signature

The Honourable Mr. Justice S. M. Soni

and

The Honourable Mr. Justice R. R. Jain

Mr. D.H. Waghela, advocate for the petitioner.

Mr. P.M. Thakkar, advocate for respondents.

1. Whether Reporters of Local Papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram: S.M. Soni & R.R. Jain, JJ.

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December 11, 1995.

Oral judgment (Per Soni, J.)

Petition is filed for necessary action under the Contempt of Courts Act for non-compliance of the award passed by the Industrial Tribunal, Rajkot, in Reference (I.T) No.232/85 dated 30.9.1992.

Labour Court is established under Section 7 of the Industrial Disputes Act, 1947 ("Act" for short) and

Industrial Tribunal is established under Section 7-A of the Act. If one also looks at the powers which they can exercise, they are given power to exercise for the matters pertaining to different Schedules. If one reads Section 7 and Section 7-A, they are *pari materia*. Section 7 of the Act empowers Labour Court to adjudicate disputes specified in the Second Schedule and for performing such other functions as may be assigned to them under the said Act. Tribunals established under Section 7-A of the Act are empowered adjudication of disputes relating to and specified in the Second Schedule or Third Schedule and for performing such other functions as may be assigned to them under the said Act. Therefore, on reading Section 7 and Section 7-A, it is clear that the Tribunal under Section 7-A can adjudicate all the disputes specified in Second Schedule as well as Third Schedule while the Labour Court's powers are limited to Second Schedule only. Labour Court as well as Tribunals can also perform such other functions as may be assigned to them under the said Act. Thus, it cannot be said that there is any difference or distinction between Labour Courts and Tribunals, except powers that they are required to exercise as qualified in the section itself.

Supreme Court in the case of Alahar Cooperative Credit Service Society v. Sham Lal, reported in 1995 (2) G.L.H. 550, has held that the Labour Court is not a 'court' subordinate to the High Court in the sense the Contempt of Courts Act makes provision requiring the High Court to deal with contempt of its subordinate courts. It is also clear that Industrial Disputes Act provides for execution of the orders, either by way of civil action or by way of penal action. Thus, Industrial Disputes Act has provided for the execution of the orders that may be passed by the Labour Courts or the Tribunals. Thus, Supreme Court in the aforesaid case has further held that contempt proceedings are again not intended to be a substitute of the execution process. Thus, in view of the Supreme Court judgment in the case of Alahar Cooperative Credit Service Society (*supra*) and in view of the judgment delivered by this Court in MCA No.225/90 and allied matters, on 7.11.1995, this petition is not maintainable in law, as Labour Court and the Industrial Tribunals are not court subordinate to High Court as required under Section 10 of the Contempt of Courts Act. In view of this fact, this petition is not maintainable and is liable to be dismissed and is hereby dismissed. Rule is discharged with no order as to costs.